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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-960*

13 **ROGER MIMS PORTER**
14 **36240 Breitner Way**
Winchester, CA 92596

A C C U S A T I O N

15 **Registered Nurse License No. 587225**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On September 12, 2001, the Board of Registered Nursing issued Registered Nurse
24 License Number 587225 to Roger Mims Porter (Respondent). The Registered Nurse License
25 expired on March 31, 2007, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

.....

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

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COST RECOVERY

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Out of State Discipline)

8. Respondent has subjected his Registered Nurse License to disciplinary action under Code section 2761, subdivision (a)(4), in that his Alabama registered nurse license was disciplined pursuant to the 1975 Code of Alabama (CA) section 34-21-25 and the Alabama Board of Nursing Administrative Code (ABNAC) section 610-X-8-.03, by the State of Alabama Board of Nursing (Alabama Board) in a disciplinary action, which resulted in his registered nurse license to be REVOKED on July 28, 2010, after the Alabama Board accepted Respondent's voluntary surrender of his Alabama nursing license. The circumstances are as follows.

9. On July 2, 1998, Respondent was issued Registered Nurse license number 1-087291 by the Alabama Board. Respondent was so licensed as a Registered Nurse at all times relevant to the matters considered by the Alabama Board.

10. On August 24, 2007, the Alabama Board considered, approved, and accepted a Voluntary Disciplinary Alternative Program Agreement Order in a disciplinary action against Respondent's registered nurse license in a matter entitled, *In the Matter of Roger Mims Porter, License No. 1-087291, Case No. 2007-0938 Respondent*, finding Respondent to have engaged in conduct constituting sufficient grounds for the imposition of sanctions against his license to practice nursing in the State of Alabama pursuant to the CA section 34-21-25, subdivision (j) and ABNAC section 610-X-13. Hence, the Alabama Board placed Respondent's registered nurse license on 60 months probation subject to terms and conditions of an Agreement, which is public information.

11. The facts that led to the discipline are that Respondent admitted to chemical dependency and acknowledged the need for treatment. On July 18, 2007, Respondent entered the partial hospitalization program at The Harbor at Thomas Hospital in Fairhope, Alabama, an Alabama Board-approved treatment provider. On July 25, 2010, pursuant to ABNAC section 610-X-8-.05, subdivision (4), Respondent voluntarily surrendered his Alabama nursing license, knowingly forfeiting and relinquishing all right, title, and privilege of practicing nursing in the

1 State of Alabama, until and unless such time as his license may be reinstated. Respondent also
2 freely, knowingly, and voluntarily waived his right to a hearing.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Out of State Discipline)**

5 12. Respondent has subjected his Registered Nurse License to disciplinary action
6 under Code section 2761, subdivision (a)(4), in that his Texas registered nurse license was
7 disciplined pursuant to Texas Occupation Code (TOC), sections 301.458, by the State of Texas
8 Board of Nursing (Texas Board) in a disciplinary action, which resulted in his Permanent
9 Certificate Number 669685, previously issued in the name ROGER MIMS PORTER, to practice
10 professional nursing in the State of Texas to be REVOKED by default. The circumstances are as
11 follows.

12 13. Respondent is a Registered Nurse holding Permanent Certificate Number 669685,
13 which was in delinquent status at the times relevant to the charges brought.

14 14. On August 9, 2011, pursuant to Texas Government Code (TGC) section
15 2001.056, the Disciplinary Committee of the Texas Board entered a disciplinary action against
16 Respondent's registered nurse license in a matter entitled, *In the Matter of Permanent Certificate*
17 *Number 669685 Issued to Roger Mims Porter*, by entering a default order revoking Respondent's
18 privilege to practice professional nursing in the State of Texas.

19 15. The facts that led to the discipline are as follows. On August 24, 2007, while
20 holding a license to practice nursing in the State of Texas, Respondent entered into a Voluntary
21 Disciplinary Alternative Program Agreement with the Alabama Board wherein he admitted to
22 being chemically dependent and was required to enter into a treatment program, which
23 circumstances are detailed in paragraphs 8 to 11, above, and incorporated by reference as part of
24 this cause for discipline.

25 16. On April 27, 2011, pursuant to TOC section 301.452, subdivision (b) the Texas
26 Board sent Respondent a written notice of formal charges that were filed in accordance with
27 TGC section 2001.054, subdivision (c), based on the Revocation order issued by the Alabama
28 Board dated July 28, 2010. After proper and timely Notice regarding the violations alleged in the

1 Formal Charges, Respondent failed to appear in accordance with title 22 TAC chapter 213. On
2 August 9, 2011, the Eligibility and Disciplinary Committee of the Texas Board after hearing,
3 review, and due consideration adopted the proposed findings of fact and conclusions of law as
4 stated in the Formal Charges.

5 **PRAYER**

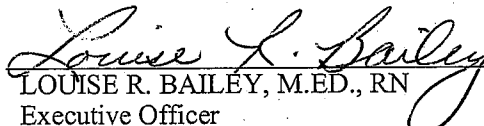
6 WHEREFORE, Complainant requests that a hearing be held on the matters herein
7 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

8 1. Revoking or suspending Registered Nurse License Number 587225, issued to
9 Roger Mims Porter;

10 2. Ordering Roger Mims Porter to pay the Board of Registered Nursing the
11 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
12 Professions Code section 125.3;

13 3. Taking such other and further action as deemed necessary and proper.
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17 DATED: APRIL 24, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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